

APPEAL NO. 023219
FILED FEBRUARY 7, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on November 13, 2002. The appellant (claimant) appeals the hearing officer's determinations that the claimant's injury date is _____; that the claimant failed to timely report her on-the-job injury; that the claimant did not have good cause for failing to timely report her injury; and that the claimant sustained no disability. The respondent (self-insured) contingently appeals the hearing officer's determination that the claimant sustained on-the-job carpal tunnel syndrome. The claimant, in her appeal, responds to the self-insured's contingent appeal. The self-insured responds to the claimant's appeal, asserting first that the claimant's appeal was untimely, and second, that the finding of no timely reporting of the injury should be affirmed. Although the claimant files a reply to the self-insured's response to the claimant's appeal, neither the 1989 Act nor the Texas Workers' Compensation Commission (Commission) Rules provide for such a reply, therefore we will not consider the claimant's reply to the self-insured's response.

DECISION

The claimant's appeal not having been timely filed, the carrier's contingent appeal is withdrawn and the decision and order of the hearing officer have become final pursuant to Section 410.169.

Pursuant to Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.5(a) (Rule 102.5(a)), all notices and written communications to the claimant will be mailed to the last address supplied by the claimant or claimant's representative. Rule 102.5(d) provides that the claimant is deemed to have received the decision and order of the hearing officer five days after it was mailed. The Appeals Panel has held that, where Commission records show mailing on a particular day to the address confirmed by the claimant as being correct, a mere statement that the decision was not received until a later date is not sufficient to extend the date of receipt past the deemed date of receipt. See Texas Workers' Compensation Commission Appeal No. 982248, decided November 5, 1998; Texas Workers' Compensation Commission Appeal No. 990170, decided March 18, 1999. The Decision and Order was mailed to the claimant on November 25, 2002. The claimant is deemed to have received the hearing officer's decision on November 30, 2002, five days after it was mailed. The claimant had 15 days, excluding Saturdays, Sundays, and holidays listed in Section 662.003 of the Texas Government Code, or until Friday, December 20, 2002, to mail her request for review to the Commission. The claimant's appeal reflects that it was faxed to the Commission on December 23, 2002. Thus, the appeal is untimely, having been filed after December 20, 2002.

The claimant's appeal being untimely, the decision of the hearing officer has become final. Section 410.169.

The true corporate name of the insurance carrier is **(a certified self-insured)** and the name and address of its registered agent for service of process is

**US CORPORATION COMPANY
800 BRAZOS, COMMODORE 1, SUITE 750
AUSTIN, TEXAS 78701.**

Roy L. Warren
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Thomas A. Knapp
Appeals Judge